

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency After Notice**

**Rule making related to appeals to managed care organizations**

The Department of Human Services hereby amends Chapter 73, “Managed Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

*Purpose and Summary*

These amendments update the Iowa Administrative Code to reflect revised federal standards for the resolution of appeals to managed care organizations (MCOs).

1. The revised federal regulations (42 CFR § 438.408(b)(2)) require nonexpedited appeals to be resolved within 30 calendar days of the plan’s receipt of the request (unless an extension is requested), whereas paragraph 73.12(2)“d” currently requires resolution within 45 calendar days.

2. The revised federal regulations (42 CFR § 438.408(b)(3)) require that expedited appeals be resolved within 72 hours, whereas paragraph 73.12(2)“e” currently requires resolution in up to three business days.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3514C**. The Department received a comment from one respondent during the public comment period. The comment, in two parts, and the Department’s response are as follows:

**Comment:**

1. The respondent was supportive of the amendment to match Iowa’s rules with 42 CFR § 438.408(b)(2) to require nonexpedited appeals to be resolved within 30 calendar days of the plan’s receipt of the request and stated that resolving patient appeals in a timely manner is important to ensuring adequate patient care and coverage.

2. The respondent was also supportive of the amendment to match Iowa’s rules with 42 CFR § 438.408(b)(3) to require expedited appeals to be resolved within 72 hours. While the respondent was supportive of providing adequate opportunities for patients to appeal managed care organization (MCO) decisions, the respondent also reminded the Department of the importance of allowing providers to appeal. The respondent stated that allowing providers to appeal is essential to ensuring that providers are adequately compensated for their services and can resolve claim disputes in a timely and efficient manner.

**Department response:**

These amendments address the appeal policies and procedures for an enrollee, or an enrollee’s authorized representative, to appeal an MCO action. The Department will not further amend these rules at this time because subrule 7.2(5) addresses the appeal rights of providers.

These amendments are identical to those published under Notice of Intended Action.

### *Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on February 14, 2018, because the amendments confer a benefit on the public by shortening the time frame for resolution of appeals.

### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on February 14, 2018.

### *Fiscal Impact*

Managed care enrollee nonexpedited appeals will be required to be resolved within 30 days after the MCO receives the appeal. For expedited resolution of an appeal, the time frame for resolution and notice to enrollees is 72 hours after the MCO receives the appeal. There is no additional cost for the change in the time frames that MCOs have to resolve appeals.

### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making became effective on February 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **73.12(2)“d”** as follows:

*d.* Provide for resolution of nonexpedited appeals to be concluded within 45 30 calendar days of receipt of the request unless an extension is requested.

ITEM 2. Amend paragraph **73.12(2)“e”** as follows:

*e.* Provide for resolution of expedited appeals where the standard time period could seriously jeopardize the member's health or ability to maintain or regain maximum function to be within ~~three business days~~ 72 hours of receipt of the notice pursuant to federal funding requirements, including 42 CFR 438.402 as amended to October 16, 2015.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/14/18.